

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSEPH AUGUST MARSALA,

Plaintiff,

v.

MARCELO RA,

Defendant.

Case No. 1:20-cv-01794-JLT-CDB (PC)

ORDER GRANTING DEFENDANT'S
MOTION *NUNC PRO TUNC* FOR
EXTENSION OF TIME TO FILE
RESPONSIVE PLEADING

(Doc. 23)

NINETY (90) DAY DEADLINE

Plaintiff Joseph August Marsala is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed under 42 U.S.C. § 1983.

On November 17, 2022, Defendant Marcelo Ra filed a Waiver of Service of Summons in which he acknowledged that service of a responsive pleading was due within sixty days of October 20, 2022. (Doc. 21.) Accordingly, service of Defendant's responsive pleading was due on December 19, 2022.

On December 19, 2022, Defendant filed a motion for a ninety-day extension of time to file a responsive pleading. (Doc. 23.) As grounds, Defendant states that the Correctional Law Section of the Office of the Attorney General is understaffed, and despite efforts to recruit and hire additional attorneys, the current Deputy Attorneys General are unable to complete case work for additional cases.

1 Requests for extensions of time in the Eastern District of California are governed by
2 Local Rule 144, which provides: “Counsel shall seek to obtain a necessary extension from the
3 Court or from other counsel or parties in an action as soon as the need for an extension becomes
4 apparent.” L.R. 144(d).

5 Here, given that Defendant has requested a ninety-day extension, it should have become
6 apparent before the due date for a responsive pleading that such an extension was needed, and,
7 hence, under Local Rule 144, Defendant was required to file his current request for extension of
8 time before now.

9 The Court disfavors granting *nunc pro tunc* relief and directs Counsel for Defendant to
10 exercise better care in anticipating any future requests for extensions of time and filing such
11 requests well before the terminal filing date that Defendant seeks to extend. However, under the
12 circumstances, and given that this is his first request for extension of time, Defendant has
13 demonstrated good cause for the extension.

14 Accordingly, the Court **GRANTS** Defendant’s motion for an extension of time. (Doc.
15 23.) Defendant is granted leave to file a responsive pleading ninety days from the date the
16 responsive pleading was due (December 19, 2022).

17 No further extension will be granted without a timely request and showing of good cause.

18 IT IS SO ORDERED.

19 Dated: **December 23, 2022**

20 
UNITED STATES MAGISTRATE JUDGE